

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7867

Application of Seneca Mountain Wind, LLC, for)
authority, pursuant to 30 V.S.A. §§ 246 and 248, to)
install four temporary meteorological stations, two)
in the Town of Brighton, Vermont, and one each in)
the towns of Ferdinand and Newark, Vermont)

Order entered: 10/2/2014

ORDER RE: REMAND FROM VERMONT SUPREME COURT

On August 9, 2013, the Public Service Board ("Board") issued an Order (the "August 9 Order") and Certificate of Public Good ("CPG") authorizing Seneca Mountain Wind, LLC ("Seneca") to install four temporary meteorological stations, two in the Town of Brighton, Vermont, and one each in the Towns of Ferdinand and Newark, Vermont.

On September 6, 2013, the Town of Newark, the Town of Brighton, Mark Whitworth and Noreen Hession, and Newark Neighbors United, intervenors in this proceeding ("Appellants"), filed with the Board a Notice of Appeal of the Board's August 9 Order to the Vermont Supreme Court.

On July 28, 2014, the Vermont Supreme Court issued an Order requesting the parties to the appeal to show cause why the appeal should not be dismissed as moot in light of recent developments indicating that Seneca had abandoned its meteorological ("MET") tower project.¹

On August 12, 2014, after reviewing written arguments from Seneca and the Appellants, the Vermont Supreme Court issued the Remand Order remanding to the Board the appeal of the Board's August 9 Order "for a period not to exceed ninety days for the Board to consider, given the current circumstances, whether appellee's CPG should be revoked or declared void with respect to the towers located in the Town of Newark and the Town of Brighton." If the Board

1. *See In Re Seneca Mountain MET Tower Project*, Docket No. 2013-372, Order of 8/12/14 ("Remand Order").

either revokes or declares void Seneca's CPG for those towers, then the appeal will be dismissed as moot.²

On August, 18, 2014, the Board issued an order establishing September 3 and 10, 2014, as the deadlines for the parties to file briefs and reply briefs addressing the issue raised by the Remand Order.

On September 2, 2014, in lieu of filing a brief with the Board, Seneca filed a copy of its Response to Order to Show Cause previously filed with the Vermont Supreme Court, in which it had argued that the appeal was not moot.

On September 3, 2014, the Intervenors filed their Response to PSB Order re: Remand Briefs, and attached a copy of their Response to Show Cause Order previously filed with the Vermont Supreme Court, in support of their position that the CPG should be revoked or declared void, rendering the appeal moot.

No party filed a reply brief.

Subsequently, on September 26, 2014, Seneca filed a letter with both the Vermont Supreme Court and the Board in which it states that it has removed the MET tower from the Ferdinand site and not commenced site preparation or construction at any of the other three sites, and that it "no longer plans to either pursue its MET tower project at a later date, or seek permission from the Board to transfer the CPG to another person or entity." Based on these developments, Seneca states that it "now agrees with the Appellants that their appeal of the Board's order in Docket 7867 is moot."³

Based solely on Seneca's representations that it has no intention to either pursue construction of the MET towers authorized by the CPG or seek Board approval to transfer the CPG to another person or entity, we hereby revoke the CPG issued to Seneca on August 9, 2013.

SO ORDERED.

2. Remand Order.

3. Letter from Karen Tyler, Esq., to Susan M. Hudson, Clerk of the Board, dated September 25, 2014.

Dated at Montpelier, Vermont, this 2nd day of October, 2014.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/John D. Burke</u>)	BOARD
)	
)	OF VERMONT
<u>s/Margaret Cheney</u>)	

OFFICE OF THE CLERK

FILED: October 2, 2014

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.